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Eighth annual report of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

Summary

The eighth annual report of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment surveys the work of the Subcommittee during 2014.

Following a brief introduction, section II provides a factual update on developments relating to the Optional Protocol to the Convention against Torture system, including visits, the increase in States parties and in designated national preventive mechanisms as well as details concerning the operation of the Special Fund established under the Optional Protocol.

Section III highlights areas of cooperation between the Subcommittee and other international and regional bodies and civil society, summarizing the work which they have undertaken together.

Section IV provides substantive information concerning developments in the Subcommittee's working practices, setting out some preliminary thoughts on a range of substantive issues.

Section V sets out the Subcommittee's views on pretrial detention and the prevention of torture and other ill-treatment.

Section VI reflects on the Subcommittee's programme of work for 2015 and the practical challenges which need to be addressed if the work of the Subcommittee is to continue to develop.

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I. Introduction

1. Article 16, paragraph 3, of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment stipulates that the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment shall present a public annual report on its activities to the Committee against Torture. Pursuant to that provision, the draft eighth annual report, covering the Subcommittee's activities from 1 January to 31 December 2014, was considered and approved by the Subcommittee at its twenty-fourth session.

II. The year in review

A. Participation in the Optional Protocol system

2. As at 31 December 2014, 76 States were party to the Optional Protocol.[1] In 2014, six States ratified or acceded to the Optional Protocol: Lithuania (20 January), Greece (11 February), Mozambique (1 July), Finland (8 October), Niger (7 November) and Morocco (24 November).

3. The pattern of regional participation was as follows:

Africa	16
Asia and the Pacific	8
Eastern Europe	19
Latin American and Caribbean States	14
Western European and other States	19

4. The regional breakdown of the 20 signatory States was as follows:

Africa	11
Asia and the Pacific	2
Eastern Europe	0
Latin American and Caribbean States	1
Western European and other States	6

B. Organizational and membership issues

5. During the reporting period (1 January–31 December 2014), the Subcommittee held three one-week sessions at the Office of the United Nations at Geneva: the twenty-second session (24–28 February), the twenty-third session (2–6 June) and the twenty-fourth session (17–21 November).

[1] For a list of States parties, see the Subcommittee website at www.ohchr.org/EN/HRBodies/OPCAT/Pages/OPCATIndex.aspx.

6. The Subcommittee membership changed during 2014.[2] At the twenty-second session Margarete Osterfeld and Catherine Paulet succeeded to the places vacated by the resignations of Christian Pross and Olivier Obrecht the previous year. On 23 October 2014, at the fifth Meeting of States Parties to the Optional Protocol, 13 members were elected to fill the vacancies arising in respect of members whose terms of office expired on 31 December 2014. The terms of office of all the newly elected members will commence on 1 January 2015 and are for a period of four years, expiring on 31 December 2018.

7. The Bureau of the Subcommittee remained unchanged, its mandate running until the twenty-fifth session (February 2015). The Chairperson was Malcolm Evans. The Vice-Chairpersons were: Suzanne Jabbour, National Preventive Mechanisms; Aisha Shujune Muhammad, Jurisprudence and Subcommittee Rapporteur; Wilder Tayler Souto, Visits; and Fortuné Gaétan Zongo, External Relations.

8. The heads of three regional teams remain unchanged: Africa, Paul Lam Shang Leen; Asia and the Pacific, Lowell Goddard; and Europe, Mari Amos. At the twenty-third session, Enrique Font succeeded Judith Salgado Alvarez as the head of the Latin America Regional Team. The regional teams form a primary building block of the Subcommittee's work, examining the implementation of the Optional Protocol in the States parties in their region. They report back to the Subcommittee plenary, proposing recommendations where desirable. The regional teams also make recommendations to the plenary regarding the visiting programme for the forthcoming year, ensuring that the programme of universal visiting is established in a reasoned and participative manner in accordance with impartially applied strategic operational criteria.

9. The Subcommittee's permanent and ad hoc working groups met at each session during 2014. Further information on those meetings is provided in section IV below.

10. Those working methods reflect the Subcommittee's preference for meeting in subgroups and working groups, which facilitate discussion of a broader range of issues, in more depth, with greater focus and in a more inclusive fashion than would otherwise be possible.

C. Visits conducted during the reporting period

11. The Subcommittee carried out seven official visits in 2014.

12. Three visits were undertaken in accordance with its mandate under article 11 (a) of the Optional Protocol, to Nicaragua (7–16 May), Azerbaijan (8–14 September) and Togo (1–10 December).

13. Two visits were undertaken in accordance with its mandate under articles 11 (b) and 12 of the Optional Protocol, to Ecuador (1–4 September) and Malta (6–9 October).

14. One visit was undertaken in accordance with its mandate under article 13, paragraph 4, of the Optional Protocol, to Maldives (8–11 December).

15. For the first time, the Subcommittee undertook a new type of visit, namely, an "Optional Protocol advisory visit", aimed at facilitating the full implementation of the Optional Protocol (see sect. IV.C below). That visit was to Nigeria (1–3 April 2014).

[2] The list of members is available from www.ohchr.org/EN/HRBodies/OPCAT/Pages/Membership.aspx.

16. Further summary information on the above-mentioned visits is available in the press releases issued following each visit.

17. The Subcommittee draws attention to the regrettable necessity of its suspending its visit to Azerbaijan in consequence of its inability to enjoy unfettered access to all places of deprivation of liberty. The Subcommittee anticipates resuming its suspended visit when it believes it will be possible for it to be completed in accordance with its Convention mandate. In order to clarify its position in relation to such experiences, the Subcommittee issued a statement (CAT/OP/24/1).

D. Dialogue arising from visits, including publication of the Subcommittee's reports by States parties and national preventive mechanisms

18. The substantive aspects of the dialogue arising from visits are governed by the rule of confidentiality. Reports are only made public with the consent of the State party or national preventive mechanism (NPM) concerned. At the end of 2014, the Subcommittee had transmitted a total of 33 visit reports to States parties and NPMs: 20 visit reports under article 11 (a) of the Optional Protocol, including 3 within the reporting period on Gabon, Nicaragua and Peru; 2 follow-up visit reports under article 13, paragraph 4, of the Optional Protocol, including 1 within the reporting period on Cambodia; 10 reports arising from NPM advisory visits under articles 11 (b)[3] and 12 of the Optional Protocol; and 1 Optional Protocol advisory visit report, within the reporting period, on Nigeria. A total of 19 Subcommittee visit reports have been made public following requests from the States parties under article 16, paragraph 2, of the Optional Protocol, or requests from the NPMs. One report arising from an NPM advisory visit was made public in 2014 following a request from the Republic of Moldova within the reporting period.

19. In conformity with established practice, recipients are requested to provide a reply to a visit report within six months of its transmittal, giving a full account of action taken to implement the recommendations it contains. At the end of 2014, the Subcommittee had received 12 replies from States parties to visit reports under article 11 (a) of the Optional Protocol, including 1 within the reporting period on New Zealand. The replies from Argentina, Benin, Brazil, Mexico (two replies), New Zealand, Paraguay and Sweden have been made public, while those from the Plurinational State of Bolivia, Lebanon, Mauritius and Ukraine remain confidential. The Subcommittee considers the replies from the following eight States parties to be overdue: Cambodia (2009 visit), Honduras, Kyrgyzstan, Liberia, Maldives (2007 visit), Mali, Peru and Gabon.

20. The Subcommittee issues a confidential written response for each set of replies received. Responses currently remain confidential, except the Subcommittee's response sent to Brazil. It should be noted that within the reporting period, and for the first time, the Subcommittee received a reply from a State, namely, Brazil, to the Subcommittee response. That reply is also a public document.

21. The Subcommittee has conducted two visits under article 13, paragraph 4, of the Optional Protocol, to Cambodia and Paraguay. The visit report on Cambodia remains confidential. Both the report and the reply arising from the previous article 13, paragraph 4, visit to Paraguay have been made public at the request of that State party.

[3] Since the Subcommittee sends separate confidential reports to both the State party and the NPM following such visits, each visit generates two reports.

22. The Subcommittee has transmitted reports to the NPMs and to the States parties in the wake of its NPM advisory visits under articles 11 (b) and 12 of the Optional Protocol to Armenia, Germany, Honduras, the Republic of Moldova and Senegal. All the reports transmitted to the States parties remain confidential, except the reports on Germany and the Republic of Moldova, which were published during the reporting period. The reports transmitted to the NPMs of Germany, Honduras, the Republic of Moldova and Senegal are public, while the report to the NPM of Armenia is confidential. Two States parties' replies were received during the reporting period, from Armenia (public) and Germany (public). During the reporting period three NPM replies were received, from Armenia (confidential), Germany (public) and Senegal (public). The Subcommittee sent responses to the NPMs of Germany and Senegal during the reporting period. It considers that replies from the following States parties are now overdue: Honduras, Republic of Moldova and Senegal. Replies from the NPMs of Honduras and the Republic of Moldova are also now considered overdue.

E. Developments concerning the establishment of national preventive mechanisms

23. Of the 76 States parties to the Optional Protocol, 54 have officially notified the Subcommittee of the designation of their NPMs, information concerning which is listed on the Subcommittee website.

24. Seven official notifications of designation were transmitted to the Subcommittee in 2014, from Finland, Greece, Italy, Lithuania, Mauritania, Norway, and Turkey.

25. As at the end of 2014, the one-year deadline for the designation of an NPM provided for under article 17 of the Optional Protocol had not expired for three States parties: Morocco, Mozambique and Niger. Furthermore, by virtue of declarations made under article 24 of the Optional Protocol, the period within which Bosnia and Herzegovina must designate an NPM had not yet expired.

26. As at 31 December 2014, therefore, 19 States parties had not complied with their obligations under article 17 of the Optional Protocol. While that marks a slight improvement in the overall position compared to 2013, it remains a matter of major concern, particularly since some States parties appear to be making little progress in fulfilling their obligations. At each Subcommittee session, the regional teams review progress towards the fulfilment of each State party's obligation, making appropriate recommendations to the plenary on how the Subcommittee can best advise and assist the States parties concerned, in accordance with its mandate under article 11 (b) (i) of the Optional Protocol.

27. The Subcommittee has continued the practice of engaging in dialogue with States parties at its sessions concerning the designation or functioning of their NPMs. At its twenty-second session, the Subcommittee held such meetings with the permanent missions of the Democratic Republic of the Congo, Chile, Italy and the Republic of Moldova. At its twenty-third and twenty-fourth sessions, it held similar meetings with the Permanent Mission of Panama. The Subcommittee held non-plenary meetings with the permanent missions of Ecuador and Malta in preparation for the NPM advisory visits. Members of the Subcommittee are also in contact with other States parties who are in the process of establishing their NPMs. The Subcommittee continued to support the development of newly established NPMs. The Chair of the Subcommittee held a videoconference with the newly established NPM of Turkey; the videoconference involved a broad range of stakeholders, such as the Office of the United Nations High Commissioner for Human

Rights (OHCHR) Regional Office for Europe, the United Nations Development Programme in Turkey and various permanent missions. Within the framework of the joint project of OHCHR, the Subcommittee and the International Organization of la Francophonie (OIF), an event took place in Paris on 23 and 24 June 2014 with the aim of exploring issues at stake, challenges and perspectives of the NPMs in French-speaking African countries (see sect. III.A.2 below). In that context, the Subcommittee provided conceptual and practical guidance to the States parties in the region with regard to the effective implementation of the Optional Protocol provisions concerning NPMs. The event also provided an opportunity for the Subcommittee to build partnerships with OIF and a number of States parties in the African region, in the spirit of cooperation envisaged by the Optional Protocol.

28. The Subcommittee has established and maintained contact with NPMs themselves, in fulfilment of its mandate under article 11 (b) (ii) of the Optional Protocol. At its twenty-third session, the Subcommittee held for the first time two videoconferences via Skype with the NPMs of Bulgaria and Cyprus, the latter in the presence of representatives from the Permanent Mission and the Ministry of Foreign Affairs of Cyprus. In addition, the Regional Team met with the NPM of Norway. The Subcommittee has continued to provide analysis and feedback to the NPMs on their annual reports. In that connection, it was pleased to have received the annual reports of 20 NPMs during 2014. They have been posted on the Subcommittee website.

29. The Subcommittee and its members have continued to receive invitations to attend numerous national, regional and international meetings on the designation, establishment and development of NPMs in particular and on the Optional Protocol in general. Those events have been posted on the Subcommittee website.

30. The Subcommittee would like to take this opportunity to express its gratitude to the organizers of those and all other events to which the Subcommittee has been invited. It regrets that its participation must remain conditional on the financial support of others, as it has no means of its own with which to fund its members' attendance.

F. Special Fund under article 26 of the Optional Protocol

31. The purpose of the Special Fund established under article 26, paragraph 1, of the Optional Protocol is to help finance the implementation of Subcommittee recommendations made following a visit to a State party, and education programmes of NPMs. The Subcommittee wishes to express its gratitude to contributors for their generosity.[4] It is, however, aware that further contributions are urgently needed in order to sustain and consolidate the Special Fund and its work.

32. The Subcommittee firmly believes that the collaborative manner in which the Special Fund is currently administered reflects the aspirations of the drafters of the Optional Protocol. In particular, the Subcommittee believes that the focused and country-specific guidance which it can provide concerning its recommendations is essential in order to maximize the preventive impact of the grants made. The Subcommittee hopes that the Fund will continue to support projects that are essential for the effective prevention of torture and ill-treatment, and calls upon States to continue to support the Fund financially. The Subcommittee believes that the work and visibility of the Fund would be enhanced were its administrative basis to be reviewed and a discrete Board of Trustees established to oversee

[4] The Special Fund receives voluntary contributions from Governments, intergovernmental and non-governmental organizations and other private and public entities.

its operation. In the meantime, the Subcommittee stands ready to assist in the operation of the Fund in any way which might properly and usefully contribute to its effective functioning.

III. Engagement with other bodies in the field of torture prevention

A. International cooperation

1. Cooperation with other United Nations bodies

33. The Chairperson of the Subcommittee presented the seventh annual report of the Subcommittee (CAT/C/52/2) to the plenary meeting of Committee against Torture on 9 May 2014. The Subcommittee and Committee met jointly in Geneva in November 2014 to discuss a range of issues, both substantive and procedural, that are of mutual concern.

34. In conformity with General Assembly resolution 68/156, and together with the Chairperson of the Committee against Torture and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, who presented their respective reports, the Subcommittee Chairperson presented the seventh annual report of the Subcommittee to the General Assembly at its sixty-ninth session, on 21 October 2014.

35. The Subcommittee has continued its active involvement in the annual Meeting of chairpersons of human rights treaty bodies. The Chairperson of the Subcommittee was elected Chair of the twenty-sixth Meeting, held in Geneva from 23 to 27 June 2014. During the course of the year the Subcommittee also adopted a statement on the treaty body strengthening process, available on the Subcommittee website, and discussed the implementation of General Assembly resolution 68/268. The Subcommittee continues to monitor its activities to ensure conformity with the Guidelines on the independence and impartiality of members of the human rights treaty bodies. It also participated in numerous other OHCHR activities.

36. The Subcommittee joined with the Special Rapporteur on the question of torture, the Committee against Torture and the Board of Trustees of the United Nations Voluntary Fund for Victims of Torture in issuing a statement on the occasion of the International Day in Support of Victims of Torture (26 June 2014). The Subcommittee, at its twenty-fourth session, also met with the Special Rapporteur and the Committee against Torture in a public session. It should be noted that the Subcommittee now systematically transmits to the Committee against Torture its recommendations concerning States parties to the Optional Protocol whose reports are to be considered at forthcoming Committee against Torture sessions.

37. On 4 April 2014, the Subcommittee attended a plenary session of the Committee on the Rights of Persons with Disabilities in order to share the Subcommittee's experience regarding its work with NPMs and to discuss areas of cooperation. The Subcommittee also exchanged information of common interest with the Working Group on Arbitrary Detention at the consultation held from 1 to 3 September 2014.

38. The Subcommittee continued its cooperation with the United Nations High Commissioner for Refugees, including a meeting during the Subcommittee's twenty-third session; the World Health Organization; and the United Nations Office on Drugs and Crime, with the participation of a Subcommittee member in the third meeting of the open-

ended intergovernmental Expert Group on the Standard Minimum Rules for the Treatment of Prisoners, held in Vienna in March 2014.

2. Cooperation with other relevant international organizations

39. The Subcommittee is pleased that its cooperation with OIF culminated with a high-level OIF-OHCHR-Subcommittee meeting on the challenges and perspectives of NPMs in French-speaking African States, held on 23 and 24 June 2014 at the OIF headquarters in Paris. The meeting was aimed at assisting francophone African States parties in their fulfilment of Optional Protocol obligations, in particular the designation and establishment of NPMs, and at providing established NPMs with advice and assistance. More than 60 participants — OIF, OHCHR, the Subcommittee, the African Commission on Human and Peoples' Rights, the African Committee for the Prevention of Torture, States parties, parliamentarians, NPMs and representatives of civil society — participated in the event, which enabled a better understanding of the outcomes achieved and challenges faced regarding NPMs in French-speaking African States. The Subcommittee, through its Regional Team for Africa, committed itself to working in close cooperation and coordination with States parties and NPMs, including through consultations during sessions and through advisory missions, to be co-organized with, for instance, OIF, African Commission on Human and Peoples' Rights and non-governmental organizations (NGOs), and through other permanent contacts with the Subcommittee's country rapporteurs. All relevant anti-torture actors were to engage actively in the OIF summit to be held in Dakar in November 2014, and in the 2016 African Year of Human Rights in the context of the African Commission on Human and Peoples' Rights sessions. The Subcommittee would like to extend its special thanks to OIF for its active involvement in those torture prevention initiatives.

40. The Subcommittee continued its cooperation with the International Committee of the Red Cross, particularly in the context of its field visits and of its twenty-second session.

B. Regional cooperation

41. Through the heads of its regional teams, the Subcommittee continued to cooperate with other partners in the field of torture prevention, including the African Commission on Human and Peoples' Rights, the Inter-American Commission on Human Rights, the Council of Europe, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment and the European Commission.

C. Civil society

42. The Subcommittee has continued to benefit from the support of civil society actors, in particular the Association for the Prevention of Torture and the Optional Protocol Contact Network, and academic institutions, including the Human Rights Implementation Centre at the University of Bristol. It has also benefited enormously from its contact with civil society organizations while conducting its visiting programme. It would like to take this opportunity to thank them all for their work in promoting the Optional Protocol and in supporting the Subcommittee in its activities. The Subcommittee would like to express particular thanks to Open Society Foundations and the Human Rights Implementation Centre at the University of Bristol for their facilitation of the drafting by the Subcommittee of a paper on pretrial detention and the prevention of torture and other forms of ill-treatment in consultation. Special thanks must also be given to the Association for the

Prevention of Torture for its invaluable support to the Optional Protocol and to the Subcommittee.

IV. Issues of note arising from the work of the Subcommittee during the period under review

A. Changes in membership

43. At the fifth Meeting of States Parties to the Optional Protocol, held in Geneva on 23 October 2014, elections were held to elect 13 members for mandates running from 1 January 2015 to 31 December 2018. The Subcommittee wishes to acknowledge with deep gratitude the contribution of its six leaving members to its work. As the Optional Protocol permits only two consecutive terms of elected membership, the leaving members include the remaining three original founder members of the Subcommittee. This marks the end of the first full cycle of Subcommittee membership, and the Subcommittee wishes to pay tribute to the unique contribution that those founder members made to the development of the Subcommittee as a treaty body.

44. Nonetheless, the Subcommittee believes that elections also provide opportunities to rejuvenate its membership and bring fresh ideas and perspectives to the development of its mandate, the very basis of which is constructive dialogue to generate change through which to ensure that torture and other forms of ill-treatment are prevented. Change and renewal are, therefore, at the heart of its work. In that spirit, the Subcommittee warmly welcomes its newly elected members and congratulates its serving members who have been re-elected for another term.

45. The Subcommittee has much to achieve, and is confident that the commitment and independence of its membership is an invaluable asset in moving towards its goals.

B. Suspension of visit to Azerbaijan

46. The Subcommittee suspended its visit to Azerbaijan due to difficulties encountered in carrying out its mandate, as a result of which it was unable to visit several places of detention and was prevented from completing its work at others, despite repeated attempts to do so and assurances of unrestricted access given by the Azerbaijani authorities. Given the serious breaches of the Optional Protocol, the delegation concluded that the integrity of its visit, scheduled to run from 8 to 17 September, had been compromised to such an extent that it had to be suspended.

C. Development of working practices

1. Optional Protocol advisory visits

47. For some years the Subcommittee has undertaken NPM advisory visits, but where there either is no NPM, or there is no effective engagement with a designated entity, such visits need to be recrafted in order to be effective. To that end, in 2014 the Subcommittee decided to undertake its first Optional Protocol advisory visit, to Nigeria. The visit was designed to fill the "Optional Protocol engagement gap" by utilizing, in the context of a preventive visit, Optional Protocol article 11 (b) (i) to advise and assist States parties, when necessary, in the establishment of an effective and Optional Protocol-compliant NPM. The object of an Optional Protocol advisory visit is to enable the Subcommittee to understand

the exact situation in the country visited, enabling the Subcommittee to engage with and fulfil its mandates under article 11(b) (i)-(iv); such visits, which are to be short, are particularly practical for that purpose.

2. Working groups

48. The working group on reprisals, having drafted a policy on reprisals that is being used by the Subcommittee as an interim working tool, was discontinued since it had concluded its work. Similarly, the working group on Standard Minimum Rules for the Treatment of Prisoners was also discontinued, having developed a Subcommittee position paper on the issue.

49. The working group on medical issues continues to engage with relevant bodies and experts in developing a paper on the Subcommittee approach to safeguarding the rights of persons institutionalized and medically treated without informed consent. It is also formulating a policy approach for the Subcommittee with regard to obtaining access to relevant medical information during visits. The working group is also considering the establishment of a medical advisory panel to assist NPMs and exploring the possibility of holding a workshop on interviewing techniques.

50. The working group on procedural issues revised the Subcommittee's guidelines on visits and, at its twenty-fourth session, the Subcommittee adopted the newly entitled "Guidelines of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in relation to visits to States parties under article 11 (a) of the Optional Protocol" (CAT/OP/5), to reflect the different types of visits currently undertaken and other developments in working practices. The working group aims to produce a handbook on procedure, which will include the functions and responsibilities of members, taking into account the Guidelines on the independence and impartiality of members of the human rights treaty bodies.

51. The Subcommittee established a working group on jurisprudence and thematic issues, which will draft a series of thematic papers on cross-cutting issues, drawing from the work of the Subcommittee. The working group is currently concentrating on drafting position papers on the relationship between torture and the transfer and relocation of prisoners, and the relationship between discrimination and the prevention of torture, with a focus on women and lesbian, gay, bisexual, transgender and intersex persons.

52. The ad hoc intersessional working group on the self-assessment tool for national preventive mechanisms is in the process of reviewing the self-assessment tool and the NPM matrix to make them clearer, more user-friendly and aligned to the approaches of the Subcommittee.

3. Regional teams

53. As anticipated, merging the work of the regional focal points and the NPM teams to form regional teams has proven beneficial, resulting in increased dialogue and communication with NPMs. The year has seen a marked increase in the number and intensity of contacts, with engagement initiated both by the Subcommittee and by various NPMs on a diverse range of issues, facilitating the exchange of information and advice. The regional teams have thus become distinctive and dynamic forces in assisting the overarching goal of prevention within the Optional Protocol framework.

54. Given their increased workload, the Subcommittee has allocated increased meeting time to regional teams so that their intersessional work can be followed up and future

actions planned and agreed. Country rapporteurships within regional teams have been redistributed; those changes can be viewed on the Subcommittee's webpage.

4. Development of Subcommittee position papers and comments on substantive issues

55. The following subsections provide summaries of work on particular issues developed through the working group on jurisprudence and thematic issues. The issues will be developed further and, as in previous years, the Subcommittee welcomes comments and contributions to assist it in that development.

(a) Relationship between torture and the transfer and relocation of prisoners

56. The Subcommittee has observed that prisoners, both those on remand and those convicted, are transferred to different cells or wards of the same prison, or are relocated to other prisons, either as a group or individually by State authorities. The latter assert that such action is necessary for, among others, the following purposes: implementing disciplinary measures; ensuring the security of the prisoner and his or her protection from the other inmates; the provision of individualized treatment programmes specific to the prisoner; and the classification of prisoners with regard to their criminal record and history. Such action also may be necessary owing to a lack of resources or the overpopulation of the detention facility.

57. While a transfer or relocation of prisoners per se is not considered to be a wrongful act of the prison administration when practiced under good governance, where such decisions are made arbitrarily or disproportionately, or for political reasons, such an act can be considered as an illegal, extrajudicial form of administrative punishment. In addition, such transfers or relocations may amount to or lead to ill-treatment, with a wide range of consequences for the inmates, their families and, at times, the community. Therefore it is imperative that the decision to transfer or relocate be made in a transparent manner, where the decision can be appealed, or that the decision is made by an independent, competent authority or under judicial control.

58. The Subcommittee seeks to analyse its experiences in different countries, with a view to exploring the prevailing practices in relation to the transfer and relocation of detainees, and to assessing the limits and safeguards that are currently available, and those that should be available, to deem the decision to transfer or relocate detainees just, reasonable and lawful.

(b) Relationship between discrimination and the prevention of torture, with a focus on women and lesbian, gay, bisexual, transgender and intersex persons

59. During its visits, the Subcommittee has found specific situations that are related to persons deprived of liberty being members of historically discriminated-against populations, communities and groups. The Subcommittee believes that the principle of equality and non-discrimination not only results in the prohibition of different treatment when it is arbitrary and imposes disadvantages to a person or group of persons limiting or annulling their human rights, but also implies the obligation to establish differentiated measures when those are reasonable, necessary and proportional, precisely in order to guarantee human rights.

60. The Subcommittee is convinced that strengthening the protection of people deprived of their liberty and the full respect for their human rights is inextricably related to the identification of forms of discrimination and the resulting legislative, administrative and judicial measures.

61. The Subcommittee will consider this aspect of its work in its ongoing activities; this year, particular attention will be paid to torture of and ill-treatment against women and lesbian, gay, bisexual, transgender and intersex persons.

(c) Women deprived of their liberty and torture prevention

62. The Subcommittee has accumulated eight years of experience by carrying out visits to places of detention in States parties in different regions of the world. It is, certainly, an added value that a human rights treaty body can collect and analyse first-hand information about the situation of persons deprived of their liberty by direct means such as observation, individual and collective interviews with persons in detention and with authorities and NGOs, and from those sources draft a report including practical and contextualized recommendations in order to prevent torture and ill-treatment.

63. Some concerning situations that the Subcommittee has found regarding women deprived of liberty include: use of sexual violence as torture, including against transgender persons; lack of adequate attention to their right to health care, including sexual and reproductive health rights; the precarious situation of pregnant women and their children living with them; non-compliance with the rule of separation of women and men; shortage of women custody staff; the practice of invasive revisions, including in intimate parts of the body, and the use of public nudity; discrimination in access to work, education and recreational activities; limitations on contact with relatives, including visits by intimates and contact with their children, as a form of punishment; and discrimination against lesbians by including their sexual orientation as an infraction, the prohibition of physical contact with their partners, the denial of their right to intimate visits, and segregation from religious and educational activities.

64. Although torture in detention has been an area of great concern, gender-specific perspectives have not been adequately discussed, and the particular risks of ill-treatment and torture faced by women in detention have received limited attention.

65. In that context, the Subcommittee is analysing the way in which it has addressed in its visiting programme the specificity of the risks of torture and ill-treatment faced by women deprived of their liberty, and how it can implement a gender approach to visits to places of detention in States parties, thus improving its capacity to prevent torture and ill-treatment of women in detention.

(d) Lesbian, gay, bisexual, transgender and intersex persons and torture prevention

66. The Special Rapporteur on the question of torture has noted that "members of sexual minorities are disproportionately subjected to torture and other forms of ill-treatment because they fail to conform to socially constructed gender expectations. Indeed, discrimination on grounds of sexual orientation or gender identity may often contribute to the process of the dehumanization of the victim, which is often a necessary condition for torture and ill- treatment to take place." (A/HRC/22/53, para. 79).

67. Like the Special Rapporteur, the Subcommittee has noted that, in detention facilities, there is usually a strict hierarchy, and that those at the bottom of the hierarchy, such as gays, lesbians, bisexuals and transgender persons, typically suffer double or triple discrimination (A/HRC/19/41, para. 34). It has received reports of, among other things, beatings, sexual assault, confinement and targeted forms of violence, including the so-called corrective rape of lesbian women, and the intentional beatings of the breasts and cheekbones of transgender women to burst implants and release toxins. Ill-treatment extends to discrimination based on perceptions or preconceptions. This is the case in the practice of subjecting men suspected of homosexual conduct to non-consensual anal

examinations to "prove" their homosexuality. The Subcommittee has received reports of such medically worthless examinations, which have also been condemned by the Committee against Torture, the Special Rapporteur on the question of torture and the Working Group on Arbitrary Detention. The latter has held that the practice contravenes the prohibition of torture and ill-treatment.

68. In particular, the Subcommittee notes with concern the situation of complete abandonment of transgender women and men in detention. The absence of appropriate means of identification, registration and detention leads in some cases to transgender women being placed in male-only prisons, where they are exposed to a high risk of rape, often with the complicity of prison personnel. During its visits, the Subcommittee has learned that transgender persons deprived of their liberty are often forced to enact sex scenes in front of fellow inmates, and that such practices are often sponsored by guards who charge for the viewing. The Subcommittee has learned of deaths of transgender women in custody, including occurrences of death after anal penetration with a bat.

69. As stated by the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, "sanctioned punishment by States reinforces existing prejudices, and legitimizes community violence and police brutality directed at affected individuals" (A/HRC/14/20, para. 20). Special procedures mandate holders have emphasized the link between criminalization and homophobic hate crimes, police abuse, torture and family and community violence, as well as the constraints that criminalization places on the work of human rights defenders aimed at protecting the rights of lesbian, gay, bisexual, transgender and intersex persons.

70. The Subcommittee considers that the repeal of laws criminalizing same-sex sexual relations between consenting adults and other laws used to penalize individuals on the grounds of sexual orientation or gender identity is a mandatory requirement for the prevention of torture against lesbian, gay, bisexual, transgender and intersex persons.

71. Ill-treatment also occurs on the part of health professionals and in health care settings, and it includes denial of gender-appropriate medical treatment, verbal abuse and public humiliation, psychiatric evaluations, sterilization, and hormone therapy and genital-normalizing surgeries under the guise of so called "reparative therapies". The Committee on the Elimination of Discrimination against Women has expressed concern about lesbian, bisexual, transgender and intersex women as "victims of abuses and mistreatment by health service providers" (A/HRC/19/41, para. 56); the Special Rapporteur on the question of torture has expressed similar concerns.

72. The Subcommittee encourages States parties to develop and implement public health policies aimed at providing gender-appropriate care, an obligation that extends, particularly, to the satisfaction of the highly particular needs of transgender women and men and of intersex persons.

V. Substantive issues: pretrial detention and the prevention of torture and other ill-treatment

A. Definitions

73. The Subcommittee recognizes that there is a range of legal categorizations and definitions of "pretrial detention" within constitutional and legislative provisions of States parties. The various legal definitions encompass a range of different stages of deprivation of liberty for untried detainees within criminal justice systems. Furthermore, the

Subcommittee is aware that some people are deprived of their liberty within the criminal justice system with a de facto absence of intent on behalf of the relevant authorities to actually bring them to trial. Some authorities exploit ambiguities within national law or deliberately misuse terms in order to apply and extend periods of pretrial detention, thereby placing detainees at risk of torture or other ill-treatment. Accordingly, the Subcommittee considers that it is not appropriate or useful to develop and apply its own definition; instead, in the light of its guiding principles on the concept of prevention of torture and other ill-treatment (see CAT/OP/12/6), the Subcommittee takes a country-specific approach to its mandate and considers the national legal framework and the way it is applied in each State party. For the purposes of the consideration of this issue the Subcommittee will use the terms "pretrial detention" and "pretrial detainees" as generic terms to encompass the various and diverse legal categorizations of untried detainees in the criminal justice systems that may exist among States parties.

74. The aim of the Subcommittee is not to set out standards in relation to pretrial detention, but to explain the preventive approach taken by the Subcommittee to reinforce the overall objective of the existing relevant standards in order to make them operational and realizable within States parties.

B. Correlation between excessive use and misuse of pretrial detention and the prevention of torture and other ill-treatment

75. The Subcommittee has observed that at different stages of deprivation of liberty within the criminal justice context the likelihood of torture and other ill-treatment occurring may be triggered by a range of factors and local conditions. During the initial stages of a criminal investigation the incentive to obtain a "confession" and extract information can expose individuals to a particular risk of torture. Subsequent to the investigative period, pretrial detainees may be subjected to poor conditions of detention that may amount to cruel, inhuman or degrading treatment or punishment, incommunicado detention, physical and psychological abuse by staff, interprisoner violence and other human rights violations. The Subcommittee is concerned that sometimes persons are held in unofficial or secret places of detention where they are particularly at risk of torture and other ill-treatment. It reiterates that all persons deprived of their liberty must be held in official places of detention and that unofficial and secret detention is a violation of international human rights law.

76. It is a recognized norm of international law that pretrial detention must be used as a last resort, for the shortest time possible, and only for the most serious offences. When it is used it must be applied with respect for the physical and mental integrity of the individual and in conformity with other international human rights standards. Yet States continue to disregard the presumption against detention, and pretrial detainees account for a significant number, sometimes a majority, of persons deprived of their liberty in the criminal justice context within States. The Subcommittee has observed that conditions in places of pretrial detention are often worse than in other places of detention, and pretrial detainees are frequently denied certain rights and safeguards that they should be accorded under the legal concept of presumption of innocence, which takes into account their special status as unconvicted detainees. In addition, some States apply the concept of "progressive treatment", denying some detainees full access to services provided by the institution contrary to international law. In accordance with international law all persons deprived of their liberty must enjoy the full extent of the rights and opportunities they are entitled to under international human rights law and should not be discriminated against.

77. In particular, it is known that the excessive use and length of pretrial detention is a major cause of overcrowding, which is rife in many States parties. Overcrowding imposes a significant burden on all aspects of the functioning and management of places of detention and is a principal cause of poor conditions of detention. It also has a considerable impact on the working conditions for staff in places of detention. Overcrowding is a significant factor in the denial of health rights and the spread of communicable diseases among the detainee population, which can be a risk not only to detainees but also the wider community through visits and when detainees are released.

78. It is also recognized that there is a nexus between poverty, discrimination and pretrial detention. It is known that the poorest and most marginalized individuals or groups in society are most likely to come into contact with the criminal justice system and therefore to be held in pretrial detention.[5] They can be disadvantaged and discriminated against by the criminal justice system in a number of ways, for example if they are unable to afford legal representation, bail and other alternatives to detention, or payments for food, clothing, bedding and medication while in detention. Discriminatory attitudes may also expose them to conditions of detention stricter than those applied to other detainees.

79. Furthermore, although the Subcommittee acknowledges that corruption violates the rights of all those affected by it and that all detainees are in a position of vulnerability, it has observed that corruption has a disproportionate impact on the most disadvantaged and marginalized people in society (CAT/C/52/2, para. 80). Their vulnerability is heightened during periods in pretrial detention, since they may be unable to pay bribes, for example to secure access to legal representation, family members, medical professionals or other persons, to avoid further detention, to be transferred to another place of detention or to otherwise secure better conditions and treatment.

80. The Subcommittee reiterates that due process obligations are not limited to the criminal proceedings and trial. The State has the obligation to ensure that the rights of those convicted and those on remand are properly protected throughout their period of imprisonment. As a result, there must be effective legal procedures available to all prisoners enabling them to challenge any acts or omissions on the part of the detention staff or authorities which are believed to exceed what has been legally sanctioned, and their incidental consequences (ibid., paras. 54–55).

81. The Subcommittee has observed in many States parties that persons are held in pretrial detention in police stations or other places that are not specifically designed for that purpose, sometimes for protracted periods of time. It has expressed a number of concerns regarding that practice because such places do not have the necessary infrastructure, facilities or budget, and their staff do not have the necessary training, to detain people for longer periods. That can result in poor conditions of detention or expose individuals to a heightened risk of torture.

82. The excessive use and misuse of pretrial detention not only exposes people to a risk of torture and other ill-treatment, but it can also go hand in hand with the violation of other rights, in particular fair trial rights.

[5] See, for example, A/64/215 and Corr.1, para. 40.

C. Key principles of the Subcommittee's preventive approach to pretrial detention

83. The Subcommittee recognizes that in carrying out its preventive mandate there is a need not only to address problems observed in relation to specific institutions but to consider the broader political, legal and sociopolitical context within which torture and other ill-treatment occur in State parties. While that applies to all aspects of its work, the need to address the broader legal and system features is perhaps particularly significant in the context of pretrial detention. The excessive use and misuse of pretrial detention is a complex problem caused by a variety of factors, such as the legal framework; structural and resource deficiencies in the criminal justice system; corruption; interference with judicial independence; and deeply rooted attitudes, not only within the criminal justice system but at the broader societal level. Accordingly, the Subcommittee and NPMs need to consider the criminal justice system as a whole and the local conditions that influence its functioning in practice, and engage with all the relevant agencies and stakeholders. The following paragraphs set out certain key principles that are aimed at addressing specific factors that the Subcommittee is aware of in relation to the pretrial phase and inherent difficulties that have been identified.

84. Visits to places of detention in the first instance enable the visiting delegation to determine whether or not particular individuals should be held within that place of detention. The Subcommittee reiterates that deprivation of liberty pending trial should be used as a last resort.

85. Visits not only enable structural and functional failures to be identified within particular institutions but can also help to identify and verify the system-wide problems that may contribute to the likelihood of torture and other ill-treatment occurring within a State party. The Subcommittee reiterates that the purpose of its reports and recommendations is to offer practical advice on how to reduce the risk of torture or other ill-treatment and that those reports and recommendations are firmly based on, and informed by, the facts found and circumstances encountered during visits (CAT/OP/12/6, para. 4). The Subcommittee does not prescribe a set manner in which its visits will be conducted or their substantive purpose; instead, it applies its visiting mandate in a flexible manner to reflect each particular country context and thereby maximize its preventive potential and impact (ibid., para. 5 (e)). In the context of pretrial detention specifically, visits can assist in obtaining and verifying information not only about conditions of detention and treatment of pretrial detainees but also on systemic issues with the criminal justice system as a whole that have an impact on the excessive use and misuse of pretrial detention. Such issues can include a lack of resources resulting in poor case management; a lack of investigative and forensic training and resources for the police; limited availability of lawyers; a lack of training and resources for the judiciary; a lack of legislative provision for or use of alternatives to pretrial detention; and corruption. It is therefore crucial that visits are conducted to places of police custody and pretrial detention. The Subcommittee is concerned that some NPMs and other relevant national actors experience difficulties in gaining access to those places of detention. States must take measures to guarantee access by NPMs and other relevant national actors to places of police custody and pretrial detention, in conformity with the Optional Protocol.

86. Furthermore, while interviews with pretrial detainees and staff in charge of their care remain an important source of information, a thorough assessment of the practice of pretrial detention within a State party requires information to be gathered from a range of stakeholders, such as, but not limited to: ministries of justice, health and finance; prosecutors; judges; magistrates; professional associations; legal aid providers; trade unions

of police officers and prison guards; national human rights institutions; civil society organizations; faith-based organizations; the media; and, of course, NPMs.[6]

87. Thorough preparation prior to a visit is crucial, and information that is particularly significant for the Subcommittee in relation to pretrial detention includes not only the legislative and regulatory framework for pretrial detention and how that functions in practice, but also budgetary provisions for the criminal justice system; any geographical or resource impediments to the functioning of the criminal justice system; access to legal representation or medical services; and other local conditions that affect pretrial detention within States parties.

88. The Subcommittee notes that criminal justice systems are not income generating and are resource heavy. It therefore recognizes the challenges faced by States parties with limited resources. However, a lack of resources cannot be used by States to avoid their obligation to prevent torture and other ill-treatment. Some solutions to the problems created by the excessive use and misuse of pretrial detention can be implemented with minimal financial expenditure, in a cost-effective and sustainable manner. Furthermore it is recognized that the excessive use and misuse of pretrial detention has a significant social and economic impact on the wider community, exacerbating poverty and misdirecting State resources. The Subcommittee is committed to making its recommendations operational and realizable in order to assist States parties in identifying the most appropriate measures required to strengthen the preventive framework in each country context. The Subcommittee will therefore take into consideration local conditions, such as, but not limited to, the availability of lawyers, the proximity of courts to police and prisons, the availability of medical examinations and services, and the proximity of family members, when making its recommendations.[7]

89. First and foremost, the Subcommittee's approach to pretrial detention recognizes that States parties must reduce the number of persons in pretrial detention by respecting the presumption against pretrial detention and using alternatives to remand in custody. Imposing alternatives to criminal prosecution is one manifest way of diverting people away from detention under the criminal justice system. In that respect the Subcommittee draws the attention of States parties to the United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules). Where criminal prosecution is pursued a range of measures can be applied as a substitute to pretrial detention. However, any alternative measures must be applied in a non-discriminatory manner and be accessible to all. The Subcommittee has expressed concern about alternatives to pretrial detention, in particular bail or surety provisions, which may be granted but which in practice are out of reach for many detainees because, for example, they are unaffordable or because detainees may lack access to legal representation to make such a request. Accordingly, when carrying out its mandate the Subcommittee will consider the non-custodial alternatives to pretrial detention that are provided for under the national laws of States parties and their application in practice. In addition, the Subcommittee is concerned over instances of "mob justice" and

[6] See Penal Reform International and the Association for the Prevention of Torture, Detention Monitoring Tool Factsheet, 2013.

[7] The Subcommittee takes note of the following international and regional instruments that are particularly relevant to the pretrial detention context and provide useful guidance: the United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules), the United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems, the Guidelines on the Conditions of Arrest, Police Custody and Pre-trial Detention in Africa, of the African Commission on Human and Peoples' Rights, and the Principles and Best Practices on the Protection of Persons Deprived of Liberty in the Americas, of the Inter-American Commission on Human Rights.

reprisals against judges and other officials who may grant alternative measures to pretrial detention. States parties, NPMs and other national actors must ensure that no one suffers reprisals as a result of granting or being granted an alternative to pretrial detention. That will require not only mechanisms to be put in place to protect individuals who may be affected but also broader awareness-raising initiatives to explain alternatives to pretrial detention.

90. Furthermore, some detainees spend longer in pretrial detention than the prescribed maximum sentence for the alleged crime. Such persons should be identified and released. Effective oversight mechanisms and case management procedures should be in place to prevent that situation. The Subcommittee also notes that outdated offences within national legislation can contribute to excessive numbers of individuals being held in pretrial detention and can be discriminatory, disproportionately affecting the most disadvantaged and marginalized in society. Repealing outdated offences can therefore be an effective way of reducing pretrial detention with minimal cost, and the Subcommittee will work with States parties, NPMs and other stakeholders to review national legislation in order to identify any outdated offences to be repealed.

91. The right of detainees to have access to a lawyer at the outset of detention is vital to safeguard against torture and other ill-treatment and ensure respect for fair trial rights. However, in many States parties there are insufficient numbers of practising lawyers, and access to a lawyer can be difficult for many persons deprived of their liberty in the criminal justice context. In its preventive approach to pretrial detention the Subcommittee takes note of the United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems, which, in paragraph 9, assert that the first providers of legal aid are lawyers, but recognize that a wide range of stakeholders can also be involved as legal aid service providers, such as NGOs, community-based organizations, religious and non-religious charitable organizations, professional bodies and associations and academia. As well as being a fundamental safeguard against torture and other ill-treatment, access to a lawyer is important during periods of pretrial detention in order to prepare for trial and ensure fair trial rights. In some States there are limited or no facilities within places of pretrial detention for detainees to meet confidentially with a lawyer. The Subcommittee and NPMs have an important role to play in checking that the necessary measures and facilities are in place to guarantee access to a lawyer for pretrial detainees.

92. Judges, magistrates, prosecutors and other judicial officers also have a role to play in ensuring that persons deprived of their liberty are not subjected to torture and other ill-treatment. They should be vigilant to the risk of torture and other ill-treatment and use the full extent of their powers to ensure that national and international law is adhered to at all stages of deprivation of liberty. Those who have a visiting mandate should conduct visits not only to places where convicted detainees are held but also to places where there are or may be pretrial detainees. States should ensure that all judicial officers, prosecutors and law enforcement officials are trained effectively in international human rights law and in particular on the use of non-custodial measures, human rights compliant interrogation techniques and the effective investigation of torture and other ill-treatment. Where a person alleges or there is reason to suspect that torture or other ill-treatment has occurred, an investigation must be carried out in line with the Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

93. The right to have access to medical services at all times during deprivation of liberty ensures respect for the right to the highest attainable standard of health and is a crucial safeguard against torture and other ill-treatment. A range of factors can exacerbate poor health conditions during pretrial detention. In some States places of pretrial detention are

ill-equipped to provide necessary medical services or are located some distance from such services, making access difficult. In the light of the presumed temporary or short-term nature of pretrial detention, some detainees may be denied treatment that requires a longer term commitment or there may be an interruption to any ongoing treatment they require. In some instances pretrial detainees may not be able to participate in some medical treatment programmes that are aimed at facilitating the recovery and rehabilitation of convicted detainees. Accordingly, the Subcommittee recalls principle 24 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, which states: "A proper medical examination shall be offered to a detained or imprisoned person as promptly as possible after his admission to the place of detention or imprisonment, and thereafter medical care and treatment shall be provided whenever necessary. This care and treatment shall be provided free of charge." Examinations undertaken in accordance with principle 24 enable health concerns to be identified and appropriate treatment to be recommended; they also provide an opportunity for allegations or signs of torture or other ill-treatment to be examined and documented.

94. States must ensure that the delivery of health services in places of detention, including pretrial detention, meets international standards. To that end, reducing the use of pretrial detention can significantly improve health conditions within places of detention. Ministries of health should be responsible for the delivery of health services to all places of detention, and should work with other ministries to ensure that the State meets its obligations to ensure respect for the humane treatment and health rights of persons deprived of their liberty. That should ensure the independence of health professionals from law enforcement agents and officials and it may entail providing additional training and resources for health professionals and those in charge of the care of persons deprived of their liberty. In particular, health professionals have a key role to play in the prevention and documentation of torture and other ill-treatment and should be trained on the use of the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment (the Istanbul Protocol), to effectively investigate and document torture and other ill-treatment.

95. The Subcommittee also recognizes the important role to be played by NPMs in identifying and addressing the system-wide factors that affect the excessive use and misuse of pretrial detention. NPMs are therefore encouraged to submit information to the Subcommittee on the various local conditions that influence the application of pretrial detention in their respective country contexts. The Subcommittee is committed to working with NPMs to find country-specific recommendations to address any problems.

D. Concluding remarks

96. Tackling the excessive use and misuse of pretrial detention is a matter of priority for many States parties. However, the Subcommittee recognizes the challenge faced by States parties in addressing issues relating to pretrial detention owing to the range of factors that have an impact on the practice across the broad spectrum of the administration of justice. Addressing the institutional and system-wide failures requires a multi-agency approach; therefore, the Subcommittee is committed to building partnerships across State institutions and agencies, NPMs, the judiciary, legal practitioners, professional organizations, national human rights institutions, NGOs and other national stakeholders.

VI. Looking forward

97. In 2014, the Subcommittee continued to modify and review its methodologies and working practices as it endeavoured to better fulfil its mandate and increase outreach efficaciously. The changes made thus far have been promising, having not only increased the Subcommittee's capacity to engage with States parties, NPMs and other stakeholders but also facilitated enhancement of the Subcommittee's responsiveness, adding vigour to its efforts. While the Subcommittee recognizes that adjusting its working methods and approaches to be able to dispose successfully of its functions under article 11 of the Optional Protocol is a continuing process, it fully understands and appreciates that the utilization of its expertise and experience should be balanced with the core principles of confidentiality, impartiality, non-selectivity, universality and objectivity, as set out in article 2, paragraph 3, of the Optional Protocol.

The continuing challenge with resources

98. The Subcommittee notes, with appreciation, the changes incorporated into General Assembly resolution 68/268 in order to better reflect and provide for the distinct operational needs of the Subcommittee. Nonetheless, it wishes to draw attention to the fact that the resolution does not provide for any significant overall increase in capacity, but rather merely mainstreams the ad hoc support currently provided by extrabudgetary means through the generosity of some States parties. The Subcommittee understands the significance of that extra resourcing through the regular budget and it is greatly appreciative of it. Nevertheless, the blunt truth is that while the Subcommittee has the greatest backlog of work within the treaty body system it has not received, within this strengthening process, the direct additional support required to enable it to significantly increase the number of its visits.

99. Much of the mandate and work of the Subcommittee is focused on providing States parties and NPMs with advice and assistance, that is, with capacity-building in order to prevent torture and ill-treatment. The Subcommittee therefore strongly believes that it should be able to benefit from the extra provision for capacity-building measures that the General Assembly, in its resolution 68/268, called upon the Secretary-General to provide through OHCHR. The Subcommittee therefore looks forward in 2015 and beyond to seeing a meaningful increase in its operational capacity to undertake its capacity-building work, as set out in the Optional Protocol and as called for and provided for in resolution 68/268.

100. While the Subcommittee recognizes the need to work within the budget made available to it, and has sought to change its working methodology conscious of that fact, it wishes to emphasize that the Subcommittee as a treaty body is designed, in accordance with the Optional Protocol, to operate in a vastly different manner to its counterparts within the treaty body system. In that regard, the Subcommittee reiterates that it requires additional human and other resources to adequately deliver its mandate, and acknowledges that the additional professional member of staff in the Subcommittee secretariat financially supported by the United Kingdom of Great Britain and Northern Ireland and the Junior Professional Officers provided by Hungary during 2014 were vital to the work of the Subcommittee during this period. The welcome increase in the number of States parties to the Optional Protocol and of NPMs operating within its framework makes such resourcing all the more urgent. The Subcommittee would like to invite the States parties to the Optional Protocol to consider providing such additional resourcing so that the work of the Subcommittee may be conducted more fully and efficaciously.

101. Finally, while the Subcommittee has now undertaken a considerable number of visits, it is clear that it needs to focus ever more closely on deepening the intensity of its post-visit dialogue to hasten the effective implementation of its preventive recommendations. In 2015, the Subcommittee will be focusing on developing its approach to post-visit engagement, something which will inevitably have further resource implications, but which is essential to effective prevention and the integrity of the Optional Protocol system.

Plan for work in 2015

102. It is regrettable that the Subcommittee has yet again been unable to regain the ground lost in the previous years owing to the factors outlined above. As a result, the NPM advisory visit to the Netherlands planned for 2014 will take place in 2015.

103. In addition, and in order to strive towards a more appropriate level of visits, at its twenty-third session the Subcommittee decided to undertake eight visits, including "full" visits to Guatemala, Italy and the Philippines, NPM advisory visits to the Netherlands (postponed from 2014) and Turkey, an Optional Protocol advisory visit to Nauru and two follow-up visits in accordance with article 13, paragraph 4, of the Optional Protocol, while retaining flexibility to revisit its programme should that prove necessary for operational or other pressing reasons. At its twenty-fourth session the Subcommittee also decided to include in its programme of work for 2015 the resumption of its visit to Azerbaijan, meaning that a total of nine visits will be undertaken.

104. In identifying countries to visit, the Subcommittee continues to exercise a reasoned process, considering various factors, including the optimal use of the information received from regional teams, making the most efficient use of the financial and human resources available and ensuring appropriate engagement with all States parties over time. In addition, the Subcommittee pays careful attention to the date of ratification of the Optional Protocol, the development of NPMs, the geographic distribution, size and complexity of the State, preventive monitoring at the regional level and any specific or urgent issues which might be of relevance to its decision-making.